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SOCIAL JUSTICE THROUGH LEGISLATION: A REVIEW OF LAWS AND POLICIES FOR MARGINALIZED GROUPS

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Abstract

“Injustice anywhere is a threat to justice everywhere”.¹ No state can be called developed unless the last person in that nation gets justice whether it be a justice by law or a social justice.

This paper focuses on the various angles of law, policies, and initiatives by the government to uplift marginalized groups through various means, including policies and the implementation of such policies fairly and reasonably.

This paper discusses the life, problems, and status of marginalized groups in modern society, including the Constitution of India and the Universal Declaration of Human Rights (UDHR), and the intentions, objectives, and goals of government policies for marginalized groups.

Through this paper, we shall also discuss how vulnerable the marginalized groups are and how much actual and real benefit they are getting through the law and government initiatives.

This paper also discussed the facts and figures regarding the matter around the world and focused on some court orders and Public Interest Litigation

Introduction

Social justice is a fundamental human right, yet marginalized groups continue to face systematic inequalities. These marginalized groups are instead of having several laws and government protection for them they still get dominated by the other communities which are higher in status. Not only in India but also all over the world these marginalized

¹ Martin Luther King, Jr., Injustice Anywhere Is a Threat to Justice Everywhere, Goodreads, <https://www.goodreads.com/quotes/631479-injustice-anywhere-is-a-threat-to-justice-everywhere-we-are>, accessed, 21/10/2024

communities exist and face various types of serious issues as per the country or a part of the world they are living in. The most prominent issue they face anywhere is denial of their rights. Though it's their fundamental right still they are deprived of its access.

If we talk about entire marginalized groups or groups of people there is no proper thing that can be counted as a factor of discrimination. As of now, some factors are considered the most prominent reasons for discrimination on that ground marginalized groups. But, in the future, these groups can be more in numbers and there is a probability that a new group will emerge if we do not take any action towards their life improvement and overall development.

Marginalized groups are groups of people who are discriminated against by people of higher status in society on various grounds such as race, caste, sex, color, ethnicity, religion, disabilities, and socio-economic status.

This is not a new thing at all it's just that the angle of looking towards these communities has been changed positively over time. The origin of the word "Discrimination" is traced back to 17th Century England but this is just about the word; the actual practice of discrimination is far more back in time. Over time the laws all over the world started protecting and focusing along with the development of these groups. Not only the countries have laws for these marginalized groups but at the global level also they and their rights are protected the most important one that cannot be ignored is the Universal Declaration of Human Rights (UDHR) which is a foundational document that protects human rights and provides a universal standard for human rights.

Existing Laws and Policies for Marginalized Groups

Many other laws have protected the interest of these groups but the main right of all the rights that is Right to Life has been given by the Constitution of India and this right covers all the other rights. The main thing is that these rights especially Art 20 (Protection in Respect of Conviction of Offences) and Art 21 (Protection of Life and Personal Liberty) of the Indian Constitution are not suspended during an emergency because they are inalienable rights which are necessary for humanity.

Other than the Constitution of India several other Acts protect the rights of marginalized groups and their welfare. These Acts include The Protection of Civil Rights Act 1955 which aims to

protect Dalits and punish the practice of untouchability. Art 17 of the Constitution of India has also abolished untouchability.

Significant change and development of two marginalized groups transgender persons and LGBT+ community. The crucial change in transgenders' lives we can see is that they are now serving the nation and society by being in various governmental services like Police, healthcare, and other public or private offices.

The Transgender Persons (Protection of Rights) Act 2019 and Rules 2020 protect transgender rights at various levels including public and private places. There is also a National Portal for Transgender Persons which provides them skill training, composite medical health, and access to shelter homes.

Marginalized Groups and the World

Marginalized people are not always the people discriminated against on various bases but marginalized people can also be all the people of a nation irrespective of race, caste, sex, religion, ethnicity, or any other. On this matter, many of the Countries like Russia and North Korea are considered as the strictest countries over the world.

Freedom House's Worst of the Worst 2011: The World's Most Repressive Societies report has listed down the countries that have received the lowest rankings on political rights and civil liberties. These countries include Syria, Somalia, Turkmenistan, Libya, Cuba, and Saudi Arabia here people suffer the most severe abuses of human rights on the planet.²

In all targeted groups women are at the top. As per the Peace and Security Index, Afghanistan ranks in the last place worldwide.³ Other low-ranking countries include some of the African Countries. Not only women but disabled people along with children are also the most discriminated one. In 2019, a Eurobarometer survey revealed that 52% of people with disabilities feel discriminated against.⁴

² 17 Countries Top List of World's Worst Human Rights Abusers, VOA News (May 27, 2011, 8:00 PM), <https://www.voanews.com/a/article-17-countries-top-list-of-worlds-worst-human-rights-abusers-122958138/160303.html>, accessed, 21/10/2024

³ The Best and Worst Countries for Women Worldwide, Statista (Apr. 24, 2020), <https://www.statista.com/chart/11754/the-best-and-worst-countries-for-women-worldwide/>, accessed, 21/10/2024

⁴ Disability in the EU: Facts and Figures, European Council (Apr.

Marginalized groups are also hit hardest by inequality and stigma at various places including public and private. This inequality makes these communities deprived of their life, rights, and development.

These groups are vulnerable and the dominance of other groups makes them weak, and easy to hurt physically and emotionally. And these groups are more vulnerable to child labor and child marriage. The dominant nature of society alone is not responsible in the case of child labor and child marriage. Among all these poverty hits the hardest child's future.

Other prominent factors to be considered here are insufficient budget, lack of education, and poverty. In all these matters children are the ones who are considered the most vulnerable ones. Children are the future of the nation. No nation can stand without the youth and the ability they possess.

The Kids Rights Index 2020⁵ ranks Iceland first as a country where children's rights are best guaranteed. Where, on the other hand, Chand, Afghanistan, and Sierra Leone are at the bottom of the 2020 Index. As for girls 91 of 182 countries surveyed showed that girls are discriminated against and have no equal rights.

Considering all the facts and figures the question arises that despite several laws, protection, and schemes for these groups still there is a probability of an increase in these numbers. Having all the laws and policies for them the number of vulnerable groups is still higher. There can be the following reasons for the matter concerned: a) insufficient budget and funding for their upliftment b) continuity in discrimination and harassment by other groups c) that they are so marginalized that their upliftment may take several years d) lack of awareness, complicated process and poverty and high cost of litigation e) reaching to the authorities and getting access to the justice is like a challenge for them.

Access to justice doesn't come in the first place; lack of awareness, no education and not much included in the main steam of society are the background factories in this scenario.

2021), <https://www.consilium.europa.eu/en/infographics/disability-eu-facts-figures/#:~:text=1%20in%20%20feel%20discriminated,with%20disabilities%20feel%20discriminated%20against>, accessed, 21/10/2024

⁵ Children's Rights Globally Under Pressure Due to Corona Crisis, KidsRights (May 2020), <https://www.kidsrights.org/news/childrens-rights-globally-under-pressure-due-to-corona-crisis/#:~:text=Iceland%20in%20first%20place%2C%20compliments,the%20CRC%20is%20notable%20nevertheless>, accessed, 21/10/2024

Public Interest Litigation (PIL) in India has become the game changer in these types of matters. PIL is really a heroic step towards the transformation of vulnerable, marginalized groups. PIL, to date, has made many significant changes in the lives of these groups. *M.C. Mehta v. State of Tamil Nadu*⁶ was a landmark PIL in which the court ordered the state to prohibit children from working at hazardous places, establish education and recreation facilities for them, and a system of fines for employers.

Many nations are now promoting and taking care of the rights of marginalized groups and investing in their proper development and upliftment.

United Nations has several departments for marginalized groups that address their issues and provide them guidance and protection increasing opportunities for participation and representation and more. These departments are UN DESA⁷, UNDP⁸ Resource Guide Toolkit on Marginalized Minorities in Development Programming, and many more.

Conclusion

After all the laws, legislation, framework, reaching out to marginalized people, and implementation of laws and uses of resources for marginalized groups matter.

Continuity in schemes and development programs for these groups will surely help reduce their issues and will make them stand out in the mainstream of society.

All this is achievable and with some effort and focus on these groups' rights and issues will solve all their problems and they will become part of the mainstream of society.

By persisting in our efforts, marginalized groups can overcome obstacles and integrate into society. Continuous schemes and development programs will reduce their issues, ensuring equal participation. With focused attention on their rights and issues, we can solve their problems, empowering them to stand tall as valued members of society.

⁶ M.C. Mehta, Drishti IAS, <https://www.drishtijudiciary.com/important-personalities/m-c-mehta>, accessed, 21/10/2024

⁷ United Nations Department of Economic and Social Affairs, UN DESA, <https://www.un.org/en/desa>, accessed, 21/10/2024

⁸ United Nations Development Programme, UNDP, <https://www.undp.org/>, accessed, 21/10/2024